

United States District Court  
Eastern District of North Carolina  
Western Division

FILED

JUN 27 2018

Case No. 5:18-CT-3158

(To be filled out by Clerk's Office only)

PETER A. MOORE, JR., CLERK  
US DISTRICT COURT, EDNC  
BY [Signature] DEP CLK

Shawn Germaine Fraley

(In the space above enter the full name(s) of the plaintiff(s).)

Inmate Number 0498885

-against-

COMPLAINT

(Pro Se Prisoner)

Jury Demand?

☒ Yes

☐ No

Mr. Davis

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

**NOTICE**

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

## I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☐ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

## II. PLAINTIFF INFORMATION

Shawn Fraley

Name

0498885

Prisoner ID #

Lanesboro Correctional Institution

Place of Detention

P.O. Box 280

Institutional Address

Polkton

City

N.C.

State

28135

Zip Code

## III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee   ☐ State   ☐ Federal
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

#### IV. DEFENDANT(S) INFORMATION

*Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.*

Defendant 1: Mr. Davis  
Name  
Correctional Officer  
Current Job Title  
Central Prison 1300 Western Blvd 4285 M.S.C.  
Current Work Address  
Raleigh N.C. 27699-4285  
City State Zip Code  
Capacity in which being sued: ☒ Individual ☐ Official ☐ Both

Defendant 2: \_\_\_\_\_  
Name  
\_\_\_\_\_  
Current Job Title  
\_\_\_\_\_  
Current Work Address  
\_\_\_\_\_  
City State Zip Code  
Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

**Defendant(s) Continued**

**Defendant 3:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Current Job Title

\_\_\_\_\_  
Current Work Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

**Defendant 4:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Current Job Title

\_\_\_\_\_  
Current Work Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: Central Prison Segregation Area A-Block  
Mop Closet

Date(s) of occurrence: Monday 1-22-18

State which of your federal constitutional or federal statutory rights have been violated:

Right to be Free from Cruel and Unusual Punishment  
Procedural Due Process Rights

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

Who  
did what to  
you?

On Monday January 22<sup>nd</sup> 2018 I Shawn Fraley was beginning my 2<sup>nd</sup> shift in the kitchen at Central Pri'son. Officer Bruno instructed me to push a food cart to mental health hospital area. Officer Mrs. Canteen told me to set the line for segregation trays. I just had days off because of my injured left foot and was and still on medication because of my injured left foot. Since I didn't push the food cart I was handcuffed behind my back and taken to segregation. When I got to segregation I was locked in a small holding cell at the entrance of A-Block. Then officer Mr. Davis and more officers strip searched me. My kitchen whifes and my boots were taken. I was given clothes. I was bare footed which is against policy. I was locked in the holding cell at the entrance of A-Block. Officer Mr. Davis came in with mase in his hand. He started spraying me in my face and my upper body for no reason. He was maliciously and sadistically causing harm to me Shawn Fraley. After I was mased. I

What  
happened  
to you?

When did it  
happen to  
you?

Where did it  
happen to  
you?

was handcuffed behind my back by officer Mr. Davis. He took me to a janitor closet. It was a water hose hooked to a faucet. Officer Mr. Davis started spraying water in my face choking me. He then started punching me in the back of my head upper body and face. I feared for my life. I thought he was going to kill me. The whole time I was barefooted. Camera footage will prove this. Then officers at Central Prison are known for beating assaulting inmates back there in segregation. Upon going to the janitor closet I had on my Rastafarian Crown. When officer Mr. Davis assaulted me he pulled my Crown off my head. I was handcuffed behind my back. He was the only officer Mr. Davis in the closet with me which is against Policy and Procedure. Officer Mr. Davis stated he wanted to go to a blind spot out of camera view. Check State of North Carolina Department of Correction Division of Prisons Policy & Procedures Chapter F Section .1500 Title: Use of Force. 1501 Purpose. 1502 Definitions .1504 Procedures. 1506 Reporting Procedures. 1507 Video Recording of use of force incidents. All this occurred on Segregation at Central Prison in the hold cell BC 2A east side holding cell and the ~~back~~ closet on the hall way of segregation janitor closet. I was then placed in a dirty cell with the inmate who left property still in it. I stayed in that cell for a week without my personal property. I couldn't brush my teeth. I had to borrow shower shoes to take a shower. I was in pain and suffering and couldn't take my self medication. After a week of suffering I was shipped back to Lanesboro Institution. I turned in a sick call and didn't see a nurse. No incident report was done. On step 3 of my

What was  
your  
injury?

grievance its stated that officer Mr. Davis made a statement in this incident. I havent seen nothing or had a chance to make a statement in a incident report. Prison guards do not have the right to beat me or harm me unless their action is considered "reasonable" given the situation. A use of force is excessive and violates the 8<sup>th</sup> Amerdment when it is not applied in an effort to maintain or restore discipline but is used to maliciously and sadistically cause harm. Where a prison official is responsible for unnecessary and wanton infliction of pain, The 8<sup>th</sup> Amendment has been violated. "Excessive force" is any physical contact by a guard that is meant to cause harm, rather than keep order. The unprovoked beating of Plaintiff Shawn Fraley by defendant officer Mr. Davis on January 22<sup>nd</sup> 2018 violated Plaintiff's rights and constituted cruel and unusual punishment under the Eighth Amendment of the United States Constitution. The unprovoked beating of Plaintiff Shawn Fraley by defendant officer Mr. Davis Central Prison Segregation on January 22<sup>nd</sup> 2018 violated the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Officer Mr. Davis stepped on my injured left foot and bent my hand in metal handcuffs. I was placed in full restraints for no reason. I have put in sick calls and still havent received treatment. Officer Mr. Davis was hateful, cruel, and uncalled-for assaulting plaintiff. Officer Mr. Simmon had video recorded me at the holding cell BC 2A eastside holding cell after I was assaulted & maced. My nose has been dislocated my left foot is still in severe pain my eye sight is not the same I have difficulty seeing. I feared for my life I thought officer Mr. Davis was going to kill me in that janitor closet and holding cell. I'm still going through pain and suffering.

## VI. ADMINISTRATIVE PROCEDURES

**WARNING:** Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

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Is the grievance process completed?

☒ Yes ☐ No

If no, explain why not:

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## VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

For the harm, pain and suffering, and threatening my life  
violating my rights, 50,000 punitive damage. 25,000  
compensatory damages

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### VIII. PRISONER'S LITIGATION HISTORY

*The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in forma pauperis in federal court if that prisoner has "on three or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28*

*U.S.C. §1915(g).*

Have you brought any other lawsuits in state or federal court while a prisoner?

☒ Yes

☐ No

If yes, how many?

2

Number each different lawsuit below and include the following:

- Name of case (including defendants' names), court, and docket number
- Nature of claim made
- How did it end? (For example, if it was dismissed, appealed, or is still pending, explain below.)

Defendant Spaventa, Walker, Poteat 5:17-cv-00201-FDW  
Assault still pending Western District N.C.

Defendant Clawson, Johnson, Goins 5:17-cv-75-FDW  
Assault still pending Western District N.C.

**IX. PLAINTIFF'S DECLARATION AND WARNING**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.**

***Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.***

6/26/18  
Dated

Shawn Fraley  
Plaintiff's Signature

Shawn Fraley  
Printed Name

0498885  
Prison Identification #

P.O. Box 280      Polkton      N.C.      28135  
Prison Address                      City                      State                      Zip Code